



his conviction, but instead challenges the execution of his sentence. Petitioner alleges that after his fourth parole suitability hearing in 2006 where the BPT found him suitable for parole, the Governor of California reversed the BPT's decision in violation of his federal constitutional right to due process. He alleges that he has exhausted state judicial remedies as to all of the claims raised in his federal petition.

## DISCUSSION

### I. Standard of Review

This court may entertain a petition for a writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a).

It shall "award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." *Id.* § 2243.

### II. Legal Claims

Petitioner alleges that his constitutional rights were violated by the reversal of his parole suitability finding by the Governor in 2006. Liberally construed, the allegations are sufficient to warrant a response from Respondent. *See Board of Pardons v. Allen*, 482 U.S. 369 (1987); *see, e.g., Morales v. California Dep't of Corrections*, 16 F.3d 1001, 1005 (9th Cir. 1994), *rev'd on other grounds*, 514 U.S. 499 (1995).

## CONCLUSION

For the foregoing reasons and for good cause shown,

1. The Clerk shall serve by certified mail a copy of this order and the petition, and all attachments thereto, on **Respondent A.P. Kane, who is Petitioner's custodian**, and Respondent's attorney, the Attorney General of the State of California. The Clerk also shall serve a copy of this order on Petitioner.

2. Respondent shall file with the Court and serve on Petitioner, within **sixty (60)**


1 days of the issuance of this order, an answer conforming in all respects to Rule 5 of the  
2 Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should  
3 not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all  
4 portions of the state trial record that have been transcribed previously and that are relevant  
5 to a determination of the issues presented by the petition. If Petitioner wishes to respond  
6 to the answer, he shall do so by filing a traverse with the Court and serving it on  
7 Respondent within **thirty (30)** days of his receipt of the answer.

8 3. Respondent may file a motion to dismiss on procedural grounds in lieu of an  
9 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing  
10 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court  
11 and serve on Respondent an opposition or statement of non-opposition within **thirty (30)**  
12 days of receipt of the motion, and Respondent shall file with the Court and serve on  
13 Petitioner a reply within **fifteen (15)** days of receipt of any opposition.

14 4. It is Petitioner's responsibility to prosecute this case. Petitioner must keep  
15 the Court informed of any change of address by filing a separate paper captioned "Notice  
16 of Change of Address." He must comply with the Court's orders in a timely fashion.  
17 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant  
18 to Federal Rule of Civil Procedure 41(b)

19 IT IS SO ORDERED.

20 DATED: January 8, 2008

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22 \_\_\_\_\_  
23 JEFFREY S. WHITE  
24 United States District Judge  
25  
26  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL S. JONES,

Plaintiff,

v.

ARNOLD SCHWARZENEGGER et al,

Defendant.

Case Number: CV07-04323 JSW

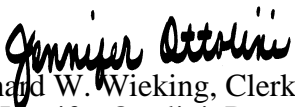
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 8, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael Scott Jones E-40401  
P.O. Box 689 (G-Wing 319L)  
Soledad, CA 93960-0689

Dated: January 8, 2008

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk